



Joseph H. Richardson  
President and  
Chief Executive Officer

June 19, 1997

The Honorable John D. Dingell, Ranking Member  
Commerce Committee Democratic Office  
564 Ford House Office Building  
U. S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Dingell:

We are responding to your April 10, 1997 letter to various investor-owned electric utility companies requesting answers to a number of pertinent and timely questions relative to electricity restructuring. Even though we were not on the list of companies asked to respond, we hope that you will consider our responses and comments.

1. In our view, it will be necessary for the Congress to enact legislation which will enable the process of competition to move forward. Only the Congress will be able to address the issues related to the mandatory purchase obligation under the Public Utility Regulatory Policies Act (PURPA), the repeal of the Public Utility Holding Company Act, the sale of the power marketing agencies and the tax subsidies now enjoyed by public power entities. These seem like appropriate roles for the federal government. We also believe that it would be the role of the federal government to insure the ongoing recovery of costs associated with these mandated laws.
2. The State of Florida is proceeding cautiously on this subject and has conducted a review of the issues. The State public utility commission has many concerns on this issue due in part to the uniqueness of Florida's electric system.
3. (a) In our view, a federal mandate is not necessary in order to promote a move toward retail competition. It seems many states are proceeding without such a mandate. Additionally, an absolute "date certain" may not provide sufficient time for some states to address problems which may be unique to them. Federal mandates, if any, should provide

flexibility and guidance without placing undue hardships on any state or its customers.

- (b) Most current legislation leaves the recovery of stranded costs up to the state. However, we believe that there is a definite role for the federal government in the recovery of stranded costs. The treatment of stranded costs should recognize that there exist two distinct classes of stranded costs, consisting of those costs resulting from government mandate and all other asset-related stranded costs.

At the very least, Congress should enact federal legislation which affords full recovery, through a non-bypassable fee, for all costs associated with governmental mandates. For certain, these would include costs associated with PURPA contracts and nuclear decommissioning.

Other stranded costs resulting from assets with above-market costs should be afforded recovery based on a determination made at the state level that management acted prudently in the acquisition of the asset and related costs. Given a firm, workable mechanism for the direct recovery of government-mandated and prudently incurred stranded costs, securitization of stranded assets is unnecessary.

*Government mandated stranded costs* include PURPA-related above market purchase power costs, costs related to nuclear decommissioning and certain regulatory assets including deferred taxes. These costs are ongoing and will continue until purchase power contracts terminate, in the case of PURPA costs, and until decommissioning is completed, in the case of nuclear generating units. Where utilities have undertaken efforts to mitigate stranded costs, the value of those efforts to the resolution of the stranded costs problem should be recognized by affording recovery to partially mitigated stranded costs. For example, a utility that has bought out and terminated a PURPA contract on favorable terms but has not yet fully recovered the buy out costs should qualify for recovery of the remaining buy out cost as a government mandated cost.

- (c) Certainly, the question you pose is precisely the reason one would use to justify action by the federal government to require retail access to all. It would seem that even a state reluctant to move toward competition will feel the pressures of that competition in areas such as economic development. States with low electric rates, particularly those with

government-subsidized low rates, could be reluctant to move toward competition without any incentive by the federal government.

4. If Congress enacts comprehensive restructuring legislation, the local distribution (wires) services must be unbundled from the energy services retail component, just as the transmission services had to be unbundled from the wholesale supply of energy services. The customer may see differences in the tariff rates for customers taking service at different voltage levels; for example, primary distribution voltage versus secondary service. Implementation schedules for unbundling or retail choice may differ by customer class, but we do not see this as a significant obstacle or impediment. The costs associated with this unbundling would be borne by the customers taking service under the appropriate tariffs approved by state utility commissions. This is true today for the costs associated with the transmission unbundling.
5. There are alternatives to the Congress's authorizing FERC to enforce compliance with NERC standards to maintain reliability of service. In Florida, state law authorizes the Florida Public Service Commission to ensure that adequate generation resources are in place and that reliable/secure transmission and distribution facilities are installed. The statute is known to Florida industry as "The Grid Bill."

If Federal legislation authorizing FERC to enforce compliance to NERC reliability standards is enacted, all industry participants who are not now regulated by FERC (municipal and cooperative utilities, etc.) should be required to comply. Furthermore, if FERC regulation of reliability is enacted, and transmission reliability/security is to be regulated, then generation adequacy should also be included in the legislation. Regulating the security of the grid and leaving its adequacy to the vagaries of the marketplace would be a flawed solution.

Florida Power Corporation's preference is for NERC member companies to self-enforce reliability standards. Membership in NERC could take the form of contracts with defined dispute resolution mechanisms ultimately backed up by the courts.

6. There is no role for public power and federal power marketing agencies in a market in which full retail competition has been adopted. Government-owned facilities should not compete against privately-owned facilities in a full competitive marketplace.

The question "are there concerns you would like to have addressed if Congress enacts comprehensive restructuring legislation" depends on the definition of "comprehensive restructuring." If such legislation were to result in all customers being eligible to choose generation supplier, then public power and federal power marketing agencies should be required to exit the generation business. If not required to exit the generation business, public power and federal power marketing agencies should be required to relinquish all government subsidies and be subject to the same tax responsibilities as private generation owners.

Regarding changes to federal law as it relates to regulation of public and federal power's transmission obligation, Congress should authorize FERC to regulate all wholesale transmission regardless of ownership (i.e., public power and federal power marketing agencies should not be exempt).

7. It appears that changes in the tax code would be unavoidable -- at all levels of government. In Florida, as in other states, electric utilities are burdened with additional fees and taxes, separate and apart from other businesses. To insure fair competition, all generating entities and power marketers should carry the same tax burden. Decreased revenue resulting from the anticipated lower cost of electricity will provide challenges to many local and state governments.
8. The Power Marketer has emerged as a significant new supplier of generation. Rather than securing adequate reserves to reliably back sales, the Power Marketer often uses liquidated damage clauses to simply pay whatever it costs to provide power if they fail to deliver. This puts the burden of reliability on others. Because generation producers are unaware of this transferred reliability responsibility, there is no reserve planning to meet the new invisible obligation. The consequence is a risk of poorer reliability of generation supply. Maintaining adequate generation reserves must be a shared responsibility of all suppliers of generation, even those who do not own and operate generating plants.

Today, there is an excess of generation supply making the issue of adequate reserves unimportant. Studies by NERC show that the nation is headed towards a shortage of generation supply just after the turn of the century. This coincides with the predicted emergence of full retail choice. In a competitive market where rising price signals induce construction of new generation, shortages become an economic necessity in order to create the needed price signal. Only adequate reliability rules which enforce reserve requirements can effectively counteract economic pressure towards poorer reliability of generation supply.

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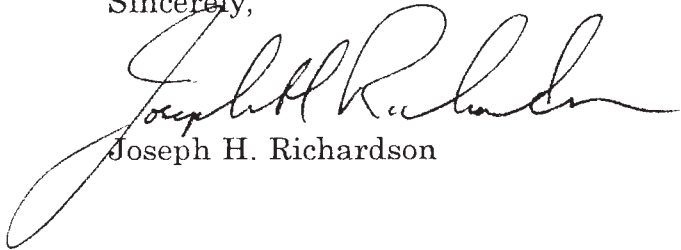
The trend towards delivery of electricity from distant suppliers to diverse geographic locations makes reliability planning a broader issue than in the past. Reliability planning should not be done independently by each reliability region. Planning must be integrated across broad geographic regions.

9. Florida Power Corporation is not a registered holding company, but supports the repeal of the Public Utility Holding Company Act (PUHCA).

Let me state clearly that Florida Power Corporation does not oppose the move toward a more competitive environment. We are a company, however, that has been burdened with a very large number of long-term PURPA contracts. Given the proper transition time and full recovery of our government mandated costs, Florida Power feels that we can succeed in a competitive industry.

We would welcome the opportunity to speak with you on these issues. Thank you again for your well thought questions and on your long interest in this industry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph H. Richardson". The signature is written in dark ink and is positioned above the printed name.

Joseph H. Richardson